

### **REMARKS**

Applicants have amended the specification to correct typographical errors.

Applicants have amended claim 18 to recite “wherein each cytosine in said oligonucleotide is a 5-methylcytosine.” Support for this amendment can be found throughout the specification as filed, for example, at page 82, lines 5-6, and, for example, at page 83, lines 23-24 of the specification of Application No. 09/908147, to which the instant application claims priority.

Applicants have added new claims 20-38. Support for these amendments can be found throughout the specification as filed, for example, at original claims 1-14; Example 15; and Table 1. Applicants note that nucleobases 263-326 of SEQ ID NO:17 are targeted by SEQ ID NOs:59-65, and ISIS 134318-134324, as shown in Table 1, and thus fall within the recited range of nucleobases 263-326 of SEQ ID NO:17. In addition, these sequences are overlapping, such that the entire region of nucleobases 263-326 is targeted by these sequences and compounds.

Currently pending claim 1 recites “an oligonucleotide consisting of 12 to 30 linked nucleosides and having a nucleobase sequence comprising an at least 8 consecutive nucleobase portion of SEQ ID NO: 64.” SEQ ID NO: 64 targets nucleotides 305-324 of SEQ ID NO:17, and therefore an oligonucleotide consisting of 30 linked nucleosides comprising at least 8 consecutive nucleobases of SEQ ID NO: 64 could target from about nucleobase 283 to about nucleobase 346 of SEQ ID NO:17. Thus, the newly recited range of nucleobases 263-326 is largely overlapping with the range of the currently pending claims. Given this large overlap, Applicants submit that searching the range recited in newly added claim 20 does not constitute an undue search burden.

Applicants submit that no new matter is added by these amendments, and request entry of the same.

#### 35 U.S.C. § 112 – New Matter

The Examiner rejects claim 6 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner states that there appears to be inadequate support in the original disclosure for the limitation “4’- (CH<sub>2</sub>)<sub>n</sub>-O-2’ bridge, wherein n is 1 or 2.” Applicants respectfully traverse.

Support for this amendment can be found throughout the specification as filed, for example, at page 16, lines 13-15, and, for example, at page 16, lines 28-30 of the specification of Application No. 09/908147, to which the instant application claims priority. The respective passages state: "The linkage is preferably a methylene  $(-CH_2)_n$  group bridging the 2' oxygen atom and the 4' carbon atom wherein n is 1 or 2."

In view of the above disclosure in the instant specification and the parent specification, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 6 under 35 U.S.C. § 112, first paragraph.

#### No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

#### Patents and Applications

Applicants wish to draw the Examiner's attention to the following patent(s) or application(s). Applicants encourage the Examiner to review and monitor the prosecution of the following patent(s) and/or application(s) throughout the pendency of this application.

<b>Patent/Serial No.</b>	<b>Title</b>	<b>Issued/Filed</b>
09/908,147	Antisense modulation of BCL2-associated X protein expression	07-17-2001

Application No.: 10/728,509  
Filing Date: December 5, 2003

### CONCLUSION

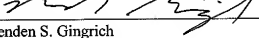
In view of the above, Applicants respectfully maintain that claims are patentable and request that they be passed to issue. Applicants invite the Examiner to call the undersigned if any remaining issues may be resolved by telephone.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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